

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
FISCHER et al.
Appl. No.: 10/578,900
§ 371 Date: March 8, 2007
For: **2-Ethyl-4,6-dimethyl-phenyl-substituted Spirocyclic Tetramic Acid Derivatives**

Confirmation No.: 3603
Art Unit: 4161
Examiner: Rodriguez-Garcia, Valerie
Atty. Docket: 2400.0410000/RWE/BAH

First Supplemental Information Disclosure Statement

Mail Stop RCE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Listed on accompanying IDS Form is a document that may be considered material to the patentability of this application as defined in 37 C.F.R. §1.56, and in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.97 and 1.98. The numbering on this First Supplemental Information Disclosure Statement is a continuation of the numbering in Applicants' Information Disclosure Statement filed on February 22, 2007 in connection with the above-captioned application. In accordance with 37 C.F.R. § 1.98(a)(2), no copy of the U.S. patent application publication cited on the attached IDS Form is submitted.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached IDS Forms based on information presently available to the undersigned. However, the listed publication dates

should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

It is respectfully requested that the Examiner review the prosecution history and cited art in the following U.S. application, which is directed to related technical subject matter:

Appl. No. 11/666,988, § 371 Date: November 28, 2007,
published September 11, 2008 as Patent Publication
No. US 2008/0220973 A1 (Document **US3**).

This Information Disclosure Statement is being filed before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. § 1.114. No statement or fee is required.

It is respectfully requested that the Examiner initial and return a copy of the enclosed IDS Forms, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Robert W. Esmond
Attorney for Applicants
Registration No. 32,893

Date: Sept 10, 2009

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

1023717_1.DOC